UNITED NATIONS **E**

Economic and Social Council

Distr.
GENERAL

E/CN.4/2002/73/Add.1
16 January 2002

ENGLISH
Original: FRENCH AND SPANISH
ENGLISH, FRENCH AND SPANISH ONLY

COMMISSION ON HUMAN RIGHTS
Fifty-eighth session
Item 11 (e) of the provisional agenda

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF: RELIGIOUS INTOLERANCE

Report submitted by Mr. Abdelfattah Amor, in accordance with Commission on Human Rights resolution 2001/42

Addendum

Visit to Argentina

GE.02-10147 (E) 250402 060502

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Introduction

1. From 23 to 30 April 2001, the Special Rapporteur on freedom of religion or belief visited Argentina at his request and at the invitation of the Argentine Government.

2. During his visit to Buenos Aires, the Special Rapporteur spoke with Mr. Fernando de la Rua, President of the Republic, government authorities (Mr. Adalberto Rodríguez Giavarini, Minister for Foreign Affairs, Ambassador Norberto Padilla, Secretary of Worship, Mr. Jorge de la Rua, Minister of Justice, and Mr. Melchor Cruchaga, Secretary of State in the Ministry of Justice), officials of various ministries, including the Ministry of Education, the Advisory Council on Religious Freedom, the President and Vice-President of the Supreme Court, the Director of the National Institute to Combat Discrimination, Xenophobia and Racism, the Director of the National Institute of Indigenous Affairs and the Buenos Aires Ombudsman.

3. He also held discussions with representatives of the Catholic Church, religious minorities, including ethnic minorities (Christian, Jewish, Muslim, Buddhist and Baha'i, in particular), humanists and indigenous peoples.

4. The Special Rapporteur met with non-governmental organizations, including the Centre for Legal and Social Studies (CELS), the Argentine League for the Rights of Man, the Permanent Assembly for Human Rights, the Ecumenical Movement for Human Rights and New Human Rights.

5. The Special Rapporteur received advice from eminent persons such as Mr. Leonardo Franco, former Special Rapporteur on the situation of human rights in the Sudan and senior official of the Office of the United Nations High Commissioner for Refugees; Mrs. Monica Pinto, former Independent Expert on the situation of human rights in Guatemala and academic secretary in the Buenos Aires Faculty of Law and Social Sciences; Mr. Hipólito Solari Yrigoyen, Senator, Vice-Chairman of the Human Rights Committee; Mr. Mario Yutsis, member of the Committee on the Elimination of Racial Discrimination; Mr. Andrès D'Alessio, Dean of the Buenos Aires Faculty of Law and Social Sciences; and Mr. Pinayan, expert on religious communities in Argentina.

6. The Special Rapporteur wishes to express his appreciation to the President of the Republic, for whom he has great respect and with whom he had the honour of holding a very useful and rewarding discussion. He thanks all the authorities for their full cooperation during the visit. The contribution of the Minister for Foreign Affairs and the Secretary of Worship deserves special mention. The Special Rapporteur is also particularly grateful to Mr. Leonardo Franco for his devotion and the contribution he made during the visit. The cooperation of the United Nations Development Programme was particularly welcome.

7. The Special Rapporteur focused on the legal aspects of freedom of religion and belief and on policy and the situation in respect of freedom of religion and belief.

8. The Special Rapporteur first wishes to transmit the following data and statistics.

9. The Department of Worship explained that it had no official statistics on religious communities.

10. The Special Rapporteur collected the following non-governmental statistics on the numerical size of religious communities:

Catholics	88 per cent of the population;
Protestants	7 per cent;
Muslims	1.5 per cent;
Jews	1 per cent;
Others	2.5 per cent.

11. These figures clearly identify a strong Catholic majority and minorities belonging to religions of the Book.

12. Attention is nevertheless drawn to the following points:

(a) These statistics reflect membership of a religious community, but not necessarily the practice of a religion;

(b) They do not provide information on known religious minorities (such as the Armenian Apostolic, Orthodox and Buddhist communities), on numerically small minorities (Baha'is, Afro-Amerindians, etc.), on indigenous beliefs or on non-belief;

(c) They do not provide information on diversity within religions, particularly the Protestant, Jewish and Muslim religions;

(d) Estimates relating to religious minorities, especially Muslims, and indigenous peoples are often contradictory.

I. LEGAL ASPECTS OF FREEDOM OF RELIGION AND BELIEF

A. Constitutional provisions

1. Federal Constitution

13. The Constitution of Argentina, as amended on 22 August 1994, guarantees freedom of religion and belief and freedom to manifest one's religion or belief.

14. Article 14 of the Constitution provides that "All inhabitants of the Nation shall be entitled to the following rights, in accordance with the laws that govern their exercise, namely: ... the right freely to practise their religion ...".

15. Foreigners' freedom of religion is also guaranteed in article 20 of the Constitution, which reads: "Foreigners in the territory of the Nation shall enjoy all civil rights of citizens; they may freely practise their religion ...".

16. Under article 19 of the Constitution, "Private activities which are in no way contrary to public order and morality and which are not prejudicial to another party shall be matters for God only and shall not be subject to the authority of the courts".

17. According to article 1 of the Constitution, "The Federal Government supports the apostolic and Roman Catholic religion".

18. Since the 1994 constitutional reform, various international human rights instruments have been incorporated into the Constitution and have constitutional status (article 75, paragraph 22, of the Constitution), including those directly or indirectly related to freedom of religion or belief, namely, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of all Forms of Discrimination against Women and the Convention on the Rights of the Child.

19. The 1994 constitutional reform repealed the constitutional provisions stating that the President and the Vice-President of the Republic had to be Catholic, that the President had a say in the appointment of priests, as well as the power to approve or not approve Catholic Church bulls, and that it was the responsibility of Congress to maintain relations with indigenous peoples and promote their conversion to Catholicism.

20. With regard to indigenous peoples, article 75 of the Constitution reads: "It is the responsibility of Congress: To recognize the ethnic and cultural pre-existence of Argentine indigenous peoples. To guarantee respect for their identity and their right to bilingual and cross-cultural education; to recognize the legal capacity of their communities and community possession and ownership of the lands they traditionally occupy; and regulate the granting of other lands that are adequate and sufficient for human development; none of them shall be sold, transmitted or subject to liens or attachments. To guarantee their participation in the management of their natural resources and other interests affecting them".

2. Provincial constitutions

21. Like article 2 of the Federal Constitution, the constitutions of Buenos Aires (1994), Catamarca (1988), Córdoba (1988), Rioja (1988), Salta (1988), Santiago del Estero (1986) and Tucumán (1990) embody the principle of State support for the Apostolic Roman Catholic Church.

22. The constitution of the province of Santa Fe (1962) recognizes Apostolic Roman Catholicism as the official religion.

23. Such provisions are, however, not contained in the provincial constitutions of the Federal Capital (1996), Chaco (1994), Chubut (1994), Corrientes (1993), Entre Rios (1933), Formosa (1991), Jujuy (1986), la Pampa (1994), Mendoza (1965), Misiones (1966), Neuquén (1994), Rio Negro (1988), San Juan (1986), San Luis (1987), Santa Cruz (1994), Tierra del Fuego and Antartida e Islas del Atlántico Sur (1991).

24. Article 199 of the constitution of the province of Buenos Aires provides that instruction in Buenos Aires public schools is given according to Christian moral principles. According to the non-governmental information obtained, this provision, which singles out the moral values of a particular religion, would not be applied because the constitution of Buenos Aires predates the Federal Constitution and is incompatible with it, the Federal Constitution having incorporated the international human rights instruments ratified by Argentina, including those embodying the principle of non-discrimination based on religion or belief.

25. With regard to the principle of State support for the Catholic Church, as provided for in the Federal Constitution and some provincial constitutions, the Special Rapporteur recalls that, in its General Comment No. 22 of 20 July 1993, the Human Rights Committee stated that the fact that a religion is recognized as State religion or that it is established as official or traditional is not contrary to human rights. However, the fact that the Federal Constitution and some provincial constitutions in Argentina establish a special link with the Catholic Church through the concept of support and, in the case of the provincial constitution of Santa Fe, grant it the status of an official religion must not lead to discriminatory treatment in respect of other religions or beliefs (question considered in parts II and III).

B. Other legal provisions

1. Penal Code

26 In chapter I (Offences against life), title I (Offences against persons) of the Penal Code of 21 December 1984, article 80 states that: "anyone who kills [...] 4. For pleasure, out of greed or because of racial or religious hatred ... shall be liable to life imprisonment, the provisions of article 52 possibly being applicable".

27. In chapter I (Offences against individual freedom), title V (Offences against freedom), article 142 states that: "Any one who deprives another person of his personal freedom shall be liable to two to six years' imprisonment, in any of the following circumstances: 1. If the offence is committed with violence or threats, for religious purposes or for revenge ...".

2. Laws directly or indirectly governing freedom of religion and belief

28. The legislation relating directly or indirectly to freedom of religion and belief is based on the principles of tolerance and non-discrimination.

(a) Principle of tolerance

Religious holidays

29. The act entitled "National Holidays and Non-working Days" of 14 June 1976 provides that Holy Thursday is a holiday.

30. Act No. 24571 (1995), entitled "Declaration of Non-working Days for Jewish Inhabitants", provides for paid holidays for the Jewish holy days of New Year (Rosh Hashanah), the Days of Atonement (Yom Kippur) and Passover (Pesach).

31. Act No. 24757 (1996), entitled "Declaration of Non-working Days for Muslim Inhabitants", provides that the Muslim New Year (Hegira), the day after the end of Ramadan (Eid al-Fitr) and the day of the Holy Day of Sacrifice (Eid al-Adha) are holidays for all Muslims.

32. The two above-mentioned acts are supplemented by Act No. 25151 (1999), entitled "Pay of Workers on Jewish and Muslim Holidays".

Exemptions on religious grounds

33. Act No. 650/1968 (1968) provides for exemptions from school examinations on Saturdays for Jewish pupils.

34. Acts Nos. 1047/1968 (1968), 616/1977 (1977) and 1325/1987 (1987) also guarantee exemptions for pupils from the Seventh Day Adventist Church.

Conscientious objection

35. Article 20 of Act No. 24429 (1995), entitled "Act on Voluntary Military Service", recognizes conscientious objection on religious grounds, inter alia, and provides for alternative civil service.

(b) Principle of non-discrimination

Non-discrimination

36. Anti-Discrimination Act No. 23592 (1998) provides for criminal penalties for discriminatory acts and omissions on grounds of religion, race or sex. Article 2 of the Act reads: "The most lenient penalty on the scale of criminal penalties for offences punishable by the Penal Code and supplementary laws shall be increased by one third and the harshest penalty by one half when the offence was committed by means of persecution or out of hatred of a race or religion or for the purpose of destroying all or part of a national, ethnic, racial or religious group". Article 3 reads: "Anyone who takes part in an organization or produces propaganda based on ideas or theories of the superiority of one race or group of persons of a particular religion, ethnic origin or colour for the purpose of justifying or advocating racial or religious discrimination in any form shall be liable to one month to three years' imprisonment. The same penalty shall apply to anyone who by any means encourages or incites persecution or hatred against any person or group of persons because of their race, religion ...".

37. Act No. 24515 (1995) establishes the National Institute to Combat Discrimination, Xenophobia and Racism (INADI), which is part of the Ministry of the Interior and was set up for the purpose of formulating national policies and practical measures to combat discrimination, xenophobia and racism. It is also competent to receive, act on and investigate any complaints within its jurisdiction, including those relating to discrimination in the area of freedom of religion. It provides a counselling service free of charge for all persons and groups who are discriminated against. It is empowered to launch education campaigns for the development of social and cultural pluralism and the elimination of discriminatory, xenophobic and racist attitudes.

Citizenship

38. Article 11 of Act No. 346 (1995) provides that the granting of Argentine citizenship may not be denied on religious grounds.

Political parties

39. Article 16 of Act No. 23298 (1985) on political parties provides that the name of a party may not contain terms expressing or likely to provoke religious antagonism.

Trade unions

40. Article 7 of Act No. 23551 (1988) on trade unions provides that such organizations cannot draw distinctions on religious grounds and must refrain from any discriminatory treatment of their members.

Labour

41. Articles 17 and 81 of Act No. 20744 (1976) on employment contracts provide that employers cannot discriminate against employees on religious grounds.

42. Article 11 of Act No. 25013 (1998) on labour reform provides that any dismissal on religious grounds constitutes discrimination.

43. Article 24 of Act No. 25164 (1999) on public employment provides that any acts or omission by personnel constituting discrimination on religious grounds are prohibited.

44. Article 4 of Act No. 25212 (1999) on the Federal Labour Agreement provides that any decisions by an employer involving discrimination based on religion and relating to employment qualify as very serious offences.

Detention

45. Act No. 24660 (1996), Decree No. 303/1996 (1997), Decree No. 18/1997 (1997) and Decree No. 1136/1997 (1997) relating to detainees provide that discrimination on religious grounds must not affect the application of custodial sentences. They also recognize the right of detainees to freedom of religion and belief, to meet with representatives of their religion

(recognized and included in the National Register of Religions) and, insofar as possible, to manifest their religion or belief (requirements of religious life, religious ceremonies, religious articles).

Education

46. Article 5 of Act No. 24159 (1993) provides that education policy must, inter alia, respect the principle of non-discrimination in respect of teaching materials. Article 43 recognizes the right of teachers to respect for their freedom of conscience and religion in the context of democratic coexistence.

47. Article 13 of Act No. 24521 (1995) on higher education guarantees the principle of non-discrimination in respect of access by students to State institutions of higher education.

48. Articles 1 to 3 of Act No. 1818/1984 (1984) recognize the right to conscientious objection to patriotic emblems for religious reasons.

49. Federal Culture and Education Council resolution No. 126/2000 of 9 March 2000 proclaims 19 April, the date of the Warsaw Ghetto uprising, the "Day of Coexistence in Cultural Diversity" and makes it one of the commemorations that appear on school calendars in education districts.

50. Ministry of Foreign Affairs decision No. 3232/2000 of 2 November 2000 encourages the organization of activities commemorating the Holocaust and recalling the preventive value of education where discriminatory, xenophobic and racist conduct is concerned.

(c) Other matters

51. Department of Worship decision No. 1248/2000 of 16 May 2000 provides for the establishment of the Advisory Council on Religious Freedom, which is part of the Department of Worship and is composed of officials from various religious denominations. Its purpose is to study the legislation in force on freedom of religion and to prepare a bill designed to govern recognition, first, of the legal status of churches, communities and religious denominations and, secondly, of their rights.

II. POLICY IN RESPECT OF FREEDOM OF RELIGION AND BELIEF

A. Consultations with the authorities

52. The executive authorities, including the President of the Republic, the Minister for Foreign Affairs, the Minister of Justice and the Secretary of Worship, and the judicial authorities, including the President and Vice-President of the Supreme Court, reported to the Special Rapporteur on Argentina's policy of respect for and the promotion of freedom of religion and belief and their freedom to manifest one's religion or belief.

53. While recalling the traditional and historical role of the Catholic Church in Argentina, they stress that, from the earliest days of Argentina's independence and, in particular, since the signature in 1925 of the Treaty of Friendship and Cooperation between the United Provinces of Río de la Plata and the United Kingdom Government, other religious denominations have been welcome. Anglican and Presbyterian immigrants were soon followed by other Christian groups, such as Orthodox Christians, and by Jewish and Muslim communities. With time, other forms of evangelical expression and small groups of other denominations, particularly from Asia, came to settle, or were established, in Argentina. Religious communities composed originally of foreigners, who enjoyed full freedom and equality, gradually became and are today active communities of Argentines with their own religious beliefs.

54. Although isolated cases of intolerance were mentioned, it was stressed that Argentina continues to be an example of religious coexistence. The Vice-President of the Supreme Court referred, for example, to the significant progress made in recognizing and protecting religious freedom since the restoration of democracy in 1983, including the incorporation into the internal legal system of major international human rights instruments relating to freedom of religion or belief, which have been given constitutional status since the 1994 constitutional reform.

55. Attention was also drawn to the importance which the Government attaches to questions of religious freedom. For his first visit abroad, for example, the President of the Republic went to Stockholm during the International Forum on the Holocaust. The Government also has a department of worship to guarantee the free exercise of the right to freedom of religion by all inhabitants of the country.

56. With regard to relations between the State, including the Department of Worship, and religious communities, the President of the Republic, the Minister for Foreign Affairs and the Secretary of Worship explained that State support for the Catholic Church, which is provided for in article 2 of the Constitution, in no way signified the establishment of an official religion and that government action in respect of the Catholic Church, like any other religious community, was based on the principles of cooperation and respect for the autonomy of religious organizations, for example, with regard to the internal disciplinary system of religions. The special status granted to the Catholic Church by article 2 of the Constitution does not in any way involve discriminatory treatment of other religions. According to the President of the Republic, the Minister for Foreign Affairs, the Vice-President of the Supreme Court and the Secretary of Worship, its basis is historical (namely, the role of the Catholic Church in the formation of the Argentine nation) and sociological (reflecting the majority of the population, which is Catholic), but it does not affect Argentina's religious pluralism or the principle of non-discrimination. This principle, which was established during the 1994 constitutional reform and in the legislation on freedom of religion and belief (see part I), as well as by the presence of members of all majority and minority religions in the highest Government and administration posts and in the private sector, means that there is equality of treatment between Catholics and non-Catholics. The Vice-President of the Supreme Court explained that the principle of non-discrimination was applicable because the constitutional provision on support for the Catholic Church was to be interpreted in the light of international standards.

57. On the question of State financial support for the Catholic Church, as compared with other religions, and in connection with the concern expressed by the Human Rights Committee ("The preferential treatment, including financial subsidies, accorded to the Catholic Church over other religious denominations constitutes religious discrimination under article 26 of the Covenant"), the President of the Republic and the Secretary of Worship explained, first of all, that the largest public subsidies were tax breaks, which were granted on exactly the same basis to all denominations. State financial support also applies to private primary and secondary schools and to the maintenance of historical places of worship, whatever the religious community concerned. In addition, the "subsidies" received by the Catholic Church represent a very small share of the national budget, i.e. less than US$ 10 million per year or about US$ 800,000 per month. Such subsidies are historically justified because they compensate the Catholic Church for the nineteenth century confiscation of most of its property and income. According to the Department of Worship, no other denomination was subjected to theft justifying the granting of such subsidies.

58. With regard to the registration of religions with the Department of Worship, all non-Catholic denominations practising in Argentina must be included in the National Register of Religions. Registration constitutes a kind of recognition by the State and facilitates cooperation between the State and religions to guarantee their autonomy. It does not, however, mean that they have legal personality under public law. In this connection, it should be pointed out that the Catholic Church does have constitutional legal status and legal personality under public law. To date, about 2,300 non-Catholic religions are registered, including the Oriental Churches (Armenian Apostolic and Antioch Syrian Orthodox); the Orthodox Churches (Patriarchates of Constantinople (Istanbul), Antioch and Moscow; Church of Serbia; Coptic Church); the Anglican Church; the Evangelical Lutheran, Reformed, Baptist, Methodist, Mennonite, Pentecostal, Free Evangelical and Free Churches (Salvation Army, Church of the Brethren, Church of Christ); the Seventh Day Adventists; the Jehovah's Witnesses; the Church of Jesus Christ of the Latter Day Saints; the Jewish, Muslim and Buddhist communities; the Bahai's; and the African, Afro-Amerindian and Umbada groups. Registration criteria depend primarily on the number of members, places of worship and training and the fundamental principles of doctrine. The Secretary of Worship stated that, in fact, non-registration does not involve any penalty for denominations which have not registered and that an administrative appeal may be filed against a denial or cancellation of registration by the State. He also said that the Department of Worship did not use the term "sect" because it is not legally defined and has a pejorative connotation.

59. In the context of relations between the State and religious communities, the Department of Worship has become a meeting place and a forum for interdenominational dialogue. In accordance with decision No. 1248/2000 of 16 May 2000, it established an advisory council which is composed of clergy and laymen, but does not officially represent religious denominations. The council assisted the Department of Worship in the preparation of a bill on freedom of religion.

60. This bill provides that the system of compulsory registration is to be replaced by a system of voluntary registration. The registration of religious denominations under certain conditions will enable them to obtain legal personality under public law automatically (with no other formalities and subject only to the requirement of not engaging in business). In order to carry

out lay activities related to the practice of religion, religious denominations may set up other types of foundations, companies and associations. If the bill is adopted, all legally registered denominations will have the rights thus far recognized only to the Catholic Church, such as the non-applicability of liens and attachments to temples and places of worship and sacred objects and the possibility of appointing chaplains in prisons, military premises and hospitals through cooperation agreements with the Government. The bill does not categorically define what is meant by religion or denomination, but its article 7 does provide that entities which exclusively carry out activities such as the study of or experimentation with philosophical and scientific ideas, psychic, parapsychological, astrophysical and astrological phenomena, prophecy and magic and problem solving and personal harmonization through parapsychological and astrological methods, prophecy, magic, physical and mental exercises and alternative diets and medicine are not regarded as churches or religious communities and denominations. So-called satanic cults or rites are also not regarded as religious denominations subject to protection by the law. The bill also provides for the establishment of an advisory council on religious freedom and, by amending some articles of the Penal Code, increases the penalties for offences against freedom of religion or belief. The Secretary of Worship stated that the bill was the result of discussions which have been going on for over 10 years and of broad consultations and that, although it could be improved, it was ultimately a balanced text. He stressed that the objective of the bill was to maintain and increase the level of religious freedom that has characterized Argentine history, primarily through pluralism, tolerance and freedom of conscience.

61. With regard to belief, the Vice-President of the Supreme Court and members of the Advisory Council on Religious Freedom recalled that freedom of religion implies freedom not to believe. As to the specific problem raised by humanists in connection with the tax making non-believers liable for the funding of religious activities, the Secretary of Worship stated that a possible change might take place in future as a result of the amendment of the system of financial support for religious denominations. Although he was of the opinion that religion must not be eliminated from society in view of its positive contribution, he said that very significant progress in respect of equality, especially for non-religious belief, has taken place in recent years and will continue. He recalled, for example, that the cross and sword ideology of the 1930s and 1940s had disappeared from the armed forces, that justice was neutral as far as religion and belief are concerned and that non-believers held Government posts. He also stated that the census of religious denominations, particularly in order to facilitate relations of cooperation, did not mean that non-believers were being rejected. The Minister of Justice said that the presence of Christian religious symbols in public buildings reflected the continuing existence of traditions, but did not constitute discrimination. With regard to religious manifestations that were contrary to the regulations of public schools, such as events beginning with prayers, he indicated that cases continued to be found primarily in rural parts of the country. As to article 199 of the Constitution of Buenos Aires providing that instruction in schools is to be given according to Christian moral principles, the Secretary of Worship said that that provision did not mean that religious teaching was being imposed. The Minister of Education explained that, despite the rules in force, there could be some cases of discrimination in schools, primarily of a non-religious nature and affecting immigrants and indigenous people. In addition to the establishment of days of commemoration, especially of the Holocaust, and the "Day of Coexistence in Cultural Diversity", the Minister is implementing a training for trainers, ethics and citizenship programme in order to teach citizens to think for themselves and about others and to promote coexistence.

62. With regard to cases of intolerance and the problems which have affected the Jewish community (the bombing on 17 March 1992 of the Israeli Embassy and, on 18 July 1994, of the Israeli Mutual Association in Argentina (AMIA); the desecration of Jewish graves, anti-Semitic attacks), the Muslim community (the attack on the Ad'Tahid mosque on 20 January 2001, inadequate government subsidies for Muslim schools, problems in obtaining visas for families of Argentine Muslims living in the Middle East) and the Armenian Apostolic and Evangelical communities (attacks on places of worship), the Secretary of Worship and members of the Advisory Council on Religious Freedom said that those attacks were isolated incidents in a peaceful country. They recalled that the attacks had given rise to an immediate reaction by the authorities. The Chairman of INADI explained that there were few and isolated cases of religious discrimination primarily involving the most minority and least-structured religious groups, such as the Afro-Amerindian and Umbanda spiritual communities, which are fairly widespread among the poor, often not recognized by the authorities and are subjected to extortion by some members of the police. The Chairman of INADI and the Buenos Aires Ombudsman said that Argentina's real problems with discrimination had to do with manifestations of xenophobia against Latin American immigrants.

63. With regard to the Jewish community, it was stated that the above-mentioned terrorist acts were outside problems influenced by the conflict in the Middle East and that anti-Semitism had declined in Argentine society, except in marginal groups such as the skinheads. The authorities, including the Minister for Foreign Affairs, the Minister of Justice and the Vice-President of the Supreme Court, said that all possible measures were being taken to identify and/or try the persons responsible for acts against the Jewish community and that justice was on course fully independently. The Vice-President of the Supreme Court drew attention to the exemplary attitude of Argentina, which had decided to make enormous efforts to solve the case of the attacks on AMIA and the Embassy of Israel rather than taking the easy way out and declaring the cases closed, and pointed out by way of comparison, that President Kennedy's murder had not been solved, despite the resources available to the United States.

64. With regard to the Muslim community, members of the Advisory Council on Freedom of Religion and the Chairman of INADI said that some of the media were responsible for the Islamophobia that connected Islam and hence all Muslims with terrorism. The Chairman of INADI said that, in cooperation with the Muslim community, in particular, INADI was keeping a close watch on that problem, but regretted that it was so difficult to prosecute the media which were responsible and which always bordered on being unacceptable. The Minister for Foreign Affairs and the Secretary of Worship said that the grievances expressed by the Muslim community were similar to those of other minorities, especially the Protestants, who complained of the great difficulties they faced in gaining access to the media. Referring to State subsidies for Muslim schools, the Secretary of Worship said that the State treated all communities equally according to the Supreme Court's ruling that there must be "equal treatment for equal situations". He also explained that cases relating to visa problems were being considered by the authorities.

65. An official of the Department of Worship explained that indigenous peoples did not have their own religious structures, but did have spiritual and religious practices. He said that no application for recognition as a religious group had been submitted by the indigenous peoples to the Department of Worship, but that did not mean that they did not have their own religious

identity. The Secretary of Worship recalled that article 75 of the Constitution recognized the rights of indigenous peoples and the need to respect their identity and that Act No. 23302 on the Protection of Indigenous Communities, adopted on the initiative of Mr. Fernando de la Rua before he became President of the Republic, had established the National Indigenous Affairs Institute (INAI) for the implementation of policies on behalf of those communities. He also stated that such progress had made it possible to start the process of returning land to the indigenous peoples. The representative of INAI explained that INAI has a temporary mandate as part of the Ministry of Social Development and the Environment until it becomes a body composed of experts serving in their personal capacity, in accordance with the law. In May 2001, an advisory council on indigenous peoples would be set up in INAI, as would provincial councils composed of indigenous representatives appointed by their communities. He also drew attention to the National Plan for Indigenous Populations, which reflects the Government's policy. In addition to a national programme for the free issue of identity documents, indigenous cross-cultural education, sustainable development and drinking water supplies, a plan provides for a national programme for the regularization of land, the basis of the indigenous population's identity. The representative of INAI said that, on the whole, there was a trend towards the normalization of the indigenous land situation and that indigenous peoples enjoyed full freedom of worship.

B. Consultations with non-governmental organizations and independent experts in the field of human rights

66. The information collected has been included in part III in order to avoid repetition and since the situation of communities of religion and belief also reflects the Government's policy in respect of religion and belief.

III. SITUATION OF COMMUNITIES OF RELIGION AND BELIEF

67. The information presented below has been gathered in talks with religious representatives, laymen, humanists, non-governmental organizations and community leaders, as well as from written communications.

A. Situation of the Catholic Church

68. Catholic representatives provided information on the satisfactory situation of the Catholic Church in Argentina with regard to respect for freedom of religion and freedom to manifest one's religion or belief.

69. Regarding State support for the Catholic Church pursuant to article 2 of the Federal Constitution, it was made clear that this should not be interpreted as the establishment of an official religion. It was stated that some provincial constitutions embodied the principle of an official religion. Catholic representatives explained the special link between State institutions and the Catholic Church in terms of historical and sociological considerations (the Catholic Church predates the establishment of the Argentine State and contributed to the building of the Argentine nation and the majority of the population is Catholic). Church representatives also referred to various manifestations of Catholicism in public institutions, such as the presence of crucifixes in the courts and the obligation in certain provinces to teach the Catholic religion in

State schools. The representatives explained article 199 of the Buenos Aires provincial constitution relating to education in State schools in accordance with Christian moral principles as being a special situation linked to the ongoing support given by the State to the Catholic Church. The Church representatives regretted that legislation permitting the teaching of Catholicism outside class schedules was not implemented.

70. Catholic Church representatives provided information on developments in the context of the 1994 constitutional reform relating to Catholicism (abrogation of earlier constitutional provisions, such as the requirement for the President and Vice-President to be Catholic, on presidential oversight of the appointment of bishops and on presidential decision-making authority relating to Catholic Church bulls).

71. They reported the following difficulties faced by the Catholic Church:

(a) Too few members of the clergy, namely, 6,000 male and 12,000 female members of religious orders, to service the majority of the population;

(b) Inadequate financial resources in comparison with the needs of the members of the Church and Catholic bodies working in the economic, social and educational spheres (for example, lack of public subsidies for private Catholic universities, a complaint echoed by other communities);

(c) A decline in religious observance, notwithstanding major pilgrimages involving at least one million Church members.

72. Catholic representatives also deplored the generally inadequate influence of the Catholic Church on public institutions. They cited the example of educational institutions' falling more and more under the influence of non-religious academic staff and the effect on the education of pupils.

73. Concerning relations with other religious communities, Catholic representatives stated that ecumenical relations with the Eastern Orthodox churches were satisfactory, although there was the risk of problems vis-à-vis more recent communities. They provided information on relations between the Catholic Church and the Jewish and Muslim communities, in which connection much remained to be done.

74. A representative of the Catholic SPES Foundation, dealing with sects, said that the role of his organization was not to question the beliefs of sects, but to take action with regard to illegal practices. Groups were classified as sects on the basis of their practices, such as misleading proselytizing and deviant thinking. The foundation identified groups (for example, Children of God/the Family, Umbanda, Gates of Heaven, Moon, Scientology, various Adventist, evangelical and satanic groups) and sectors at risk, and also assisted victims (some 4,500 cases, mostly minors). The representative reported an occurrence, in March 2000 in Buenos Aires, of cannibalism practised by two women, 21-year-old Silvina and 29-year-old Gabriela, on their father, Jean Carols Vázquez, in a satanic ritual performed by a group known as the Alchemy Center for Transmutation.

75. With regard to the incidents involving the Embassy of Israel and AMIA, the Catholic representatives stated that these had been interpreted as extraterritorial phenomena stemming from the importation into Argentina of Middle-East conflicts. The desecration of graves seemed to involve social rather than religious problems, namely, acts of vandalism committed by economically marginalized groups. Nevertheless, the existence of small, minority groups characterized by fanaticism, chauvinism and xenophobia was acknowledged. It was stated, however, that there were very few incidents involving such groups and that they did not threaten harmonious relations regarding freedom of religion and belief.

76. The consultations held by the Special Rapporteur with eastern churches under the authority of the Vatican are reported below.

77. A representative of the Maronite Church said that the Maronite community (estimated at 700,000) enjoyed a satisfactory situation in terms of freedom of religion. The group enjoyed unfettered freedom, as indicated by the existence of Maronite authorities responsible for religious expression, education and health. The community received financial support from the State for primary and secondary schools. The Maronite community felt able to maintain its identity and religious traditions.

78. A representative of the Ukrainian Catholic Church stated that the situation of the community (with an estimated membership of 220,000) in terms of freedom of religion and worship was satisfactory. The Ukrainian Catholic Church had 23 places of worship, primary and secondary schools and health centres. The representative noted the financial support received from the State for education, but said that his Church had too few financial resources to meet the growing needs of its community, particularly with the arrival in Argentina in recent years of Ukrainian immigrants (some 8,000 since 1991). The representative expressed concern at the inadequate number of Church and lay officials in comparison with the tasks facing the Church. He concluded that the Ukrainian Catholic community could continue to develop and maintain its religious traditions.

B. Situation of minorities of religion and belief

1. Christian minorities

79. Representatives of Protestant Churches (Adventists, Anglican, Baptist, Lutheran, Methodist and Waldensian) stated that freedom of religion and worship was enjoyed in Argentina to a high degree, but that there was a problem of equality.

80. The following problems were cited:

The primacy of Catholic symbols such as crucifixes, representations of the Virgin Mary and saints in official establishments, as well as official certificates containing Catholic phraseology, indicating the greater degree of importance accorded to Catholicism;

The absence of equal financial treatment of religious communities by the State, with a preponderance of financial support for the Catholic Church and Catholic social organizations, such as Caritas. Heavier taxation in certain provinces on humanitarian assistance not performed by Catholic organizations;

Influence of the Catholic Church on government authorities in terms of non-recognition of the rights of women regarding sexual issues;

Limited granting of official recognition for Jewish and Muslim holidays and non-recognition for other communities, in contrast to Catholic holidays;

The use of school textbooks suffused with Catholic beliefs, such as the struggle against the devil and a tendency to believe that that role of State education was to disseminate Catholicism.

81. In addition to these problems relating to equality, Protestant Church representatives reported attacks on places of worship, including an evangelical church burned in 1999, with a second in 2000, as well as a Methodist Church in the same year.

82. The National Council of Evangelical Christians has called for the adoption of legislation granting legal personality to all religious communities, so that assets belonging to non-Catholic religious organizations would no longer be recorded as belonging to a civil law association or a foundation. The Council has proposed an alternative bill to the legislation on religious freedom proposed by the Department of Worship, which has the shortcoming, inter alia, of maintaining the traditional dual approach, with the Catholic Church, on the one hand, and non-Catholic denominations, on the other. The Council also cites as a problem article 2 of the Federal Constitution, reflected in a number of provincial constitutions (see part I), inasmuch as interpretation is at the discretion of State officials and can lead to significant active or passive discrimination. The effect of this provision is, in each case, greater financial support by the State for the Catholic Church, funded from taxation to which not only Catholics, but non-Catholics and non-believers are subject.

83. A representative of the Russian Orthodox Church stated that his community enjoyed full freedom of religion and freedom to manifest its religion or belief. However such freedom should be accompanied by equal treatment. The representative made it clear that the aim was not to make Argentina non-Catholic, but to achieve, in particular from the legal standpoint, genuine recognition of non-Catholic religious organizations.

84. A representative of the Armenian Apostolic Church indicated that the Armenian community enjoyed full freedom of religion in Argentina. The 100,000 to 120,000 Armenians in Buenos Aires, Córdoba and elsewhere in the country had both places of worship and schools, with seven day schools. Regarding the bombing on 18 March 2000 of the San Gregorio El Iluminado Armenian school, he stated that the authorities had reacted immediately, that the investigation was ongoing and that it seemed likely that the intent had not been to target the Armenian community, but to destabilize the Government.

2. Jewish minority

85. Representatives of the Jewish community reported respect for freedom of religion and, in general, freedom to manifest their religion or belief.

86. They were not able to provide statistics on the numbers of Jews in Argentina, but estimated that the community was some 180,000 strong. The number had decreased in recent years as a result of assimilation and emigration.

87. The Jewish representatives reported that there was no shortage of places of worship, schools, which catered to 17,000 pupils and received State aid (in common with all private schools in Argentina), social and sports organizations (membership in excess of 30,000) or social assistance; there were also three homes for the elderly and a hospital. They referred to the existence of soup kitchens and social solidarity networks and emphasized their successful integration in all sectors, including economic, social, political and scientific, of Argentine society, although some difficulties persisted, de facto if not de jure, owing to anti-discrimination legislation, in terms of access to senior levels in the armed forces and the police.

88. The representatives reported a number of difficulties:

Firstly, while Argentina was not an anti-Semitic country, there were instances of anti-Semitism. However the representatives recognized that Jews sometimes levelled charges of anti-Semitism without justification, hence the creation of a legal department by the Jewish authorities to verify that complaints were well founded;

Jewish tombs had been desecrated: since 1991, several Jewish cemeteries had been desecrated in the provinces of Buenos Aires, Paraná, Salta and Córdoba;

According to information from non-governmental sources, arrests had been made in two cases involving Buenos Aires police officers. There is suspicion of police involvement in a majority of the other cases. Cases include the desecration on 19 September 1999, the eve of the Day of Atonement, of 62 tombs in the Tablada cemetery. Twelve days later, the graves of 11 children whose deaths had occurred between 1925 and 1930 were destroyed in the Ciudadela cemetery. The attacks, which occurred between the Day of Atonement, a religious holiday for Jews, and the High Holy Days, were characterized by the absence of slurs or swastikas on the tombs, which has been taken as a ploy so that the offence would be viewed as property damage, not falling within the scope of the Anti-Discrimination Act (see part I). Those responsible for the desecration have still not been identified;

There is also a report of rescission of a judgement in first instance against skinheads. Information from non-governmental sources indicates that the first judgement in which the Anti-Discrimination Act had been applied, involving the sentencing of a group of skinheads to three years in prison, was quashed in 1999 by the Criminal Supreme Court. Of concern in this case are the grounds cited for rescission of the judgement, in particular, the absence of discrimination as a motivation for the attack;

Related to this case, on 1 July 1995 in the Belgrano district of Buenos Aires, a group of skinheads attacked a young man who they took to be Jewish. The victim, C. Salgueiro, had gone out to buy cigarettes when a skinhead and two women approached him. The skinhead began to insult him: he spat in his face and called him "Jewish shit". Meanwhile, the women went to fetch a group of some 15 skinheads who beat Salgueiro up, leaving him seriously injured;

After the first trial, in which aggravating circumstances as provided for under the Anti-Discrimination Act were applied, Federal Criminal Court No. 3, sentenced three skinheads on 17 April 1998 to three years' immediate imprisonment for assault and wounding, the sentence being increased on account of the discriminatory motivation. The convicted persons appealed and, on 17 February 1999, the Court of Criminal Cassation quashed the ruling and referred the case to another court. The ground for annulment invoked by the Court was the absence of racial hatred inasmuch as "the anti-Semitic statements were essentially a kind of war cry commonly used by skinheads". On 6 March 2001, seized of this decision, the Supreme Court, on strictly formal grounds ("the special appeal, denial of which led to this complaint, is not against a judgement which is final or may be assimilated to such. Accordingly, having heard the arguments of the Procurator-General, the complaint is set aside"), confirmed the decision, despite the prosecutor's statement referring to the discriminatory nature of the offence;

This ruling has been interpreted by several non-governmental interlocutors as a failure to apply the Anti-Discrimination Act, even though the Act provides that discrimination can be based on religious grounds. Representatives of the Jewish community have expressed the view that the decision is evidence of the presence within the Argentine system of justice of anti-Semitic judges;

Mention was also made by the representatives of a parcel bomb attack, on 7 April 2001, against the Jewish orchestra conductor and musician Alberto Merenson. The investigators stated that they were focusing on individuals having been involved in anti-Semitism in the recent past;

Lastly, representatives of the Jewish community and non-governmental interlocutors raised the issue of the bombing of AMIA and, according to them, the lack of preventive measures (inadequate and ineffective surveillance of Jewish premises following the bombing of the Israeli Embassy in March 1992) and any serious investigation;

On this latter point, Jewish representatives and non-governmental organizations stated that the investigation had encountered a series of obstacles arising from serious negligence and irregularities such as the loss and destruction of significant pieces of evidence and difficulties raised by members of the security forces. By way of example, the following facts were reported: during the investigation, samples of the soil used to position the bomb were lost; tests that would have allowed the origin of the bomb to have been established were not carried out (tests called for by the fire department itself); no effort was made to reconstruct the remains of the vehicle used; samples of the rubble

from the destroyed building were mislaid, as were several important items seized in searches; other important items were not confiscated or were given back without having been analysed; audio and video cassettes were returned without having been copied or recorded; there was no attempt to reconstruct events;

In terms of obstacles to the conduct of the investigation, the Migration Office failed to provide various important pieces of information, as requested. Moreover, the security forces were found responsible for the loss of significant pieces of evidence and for having violated the prohibition on communicating with various police officers who had been arrested; moreover, the security forces tipped off a suspect who was about to be arrested, enabling him to escape;

It was also stated that elements of the case had been brought before the court conducting the oral proceedings. If, as indicated by non-governmental interlocutors, the investigation into other elements of the case is to continue, the decision compromises the conduct of the investigation. It amounts to closing the investigation into the individuals charged and the events in which they were involved, whereas, as matters stand, these individuals and the evidence relating to them are the only elements in the file; in other words, there is no other evidence and there are no other leads. The decision to refer the case to the trial court may thus result in the closure of the investigation into the bombing of AMIA. Moreover, the search for evidence relating to these individuals has not finished. Thus, important evidence, the gathering of which was ordered by the court of second instance, such as the reconstruction of events (and evidence emerging as a result), as well as other evidence that might have emerged as the file was brought to the knowledge of plaintiffs, has still not been produced;

Lastly, according to non-governmental sources, there has been little progress in the AMIA case inasmuch as the results obtained six years into the investigation are more or less those obtained in the first week; those responsible for the attack have not been identified;

Approaches to the case have differed between, on the one hand, Memoria Activa, an organization of families of victims seeking the truth and, on the other, the Delegación de Asociaciones Israelitas Argentinas (DAIA) representing the Jewish community, as well as families of victims. Memoria Activa members take the view that the failure of the investigation to produce results has demonstrated the ineffectiveness of the State and have decided to take the case to the Inter-American Court of Human Rights. DAIA, on the other hand, takes the view that, notwithstanding instances of anti-Semitism in some institutions such as the police, army and judiciary, trust must be placed in the Argentine system of justice (Argentina was one of the first countries to have adopted anti-discrimination legislation, which has been made use of by the Jewish community in various cases and has led to many decisions in favour of Jewish plaintiffs), which must be allowed to follow its course.

89. The representatives of the Jewish community explained that an effort was made to resolve problems in various spheres through dialogue. By way of example, despite a DAIA complaint against the government of Catamarca claiming discrimination in view of compulsory Catholic education in public schools in accordance with decision No. 1566/1999 of the provincial Ministry of Culture and Education, education officials in the province decided to maintain the decision, deemed in accordance with the Federal Constitution. However, following a dialogue with DAIA, the Governor of the province, on 25 April 2001, issued a decree revoking the impugned decision.

90. Representatives of the Jewish community stated that they had excellent relations with other communities, including Muslims. They stated that, following the outbreak of the Intifada in the occupied territories, DAIA and the Confederación de Entidades Argentino Arabes (FEARAB), representing Muslim and Christian Arabs, had signed a declaration of non-aggression under the auspices of INADI, later taken as a model throughout Latin America. The representatives stated that DAIA had been the first organization to intervene vis-à-vis the media regarding anti-Arab media campaigns in connection with arms trafficking by individual Arabs, so that the behaviour of the few should not be attributed to the community as a whole.

3. Muslim minority

91. Representatives of the Muslim community indicated that they enjoyed full freedom of religion and freedom to manifest their religion or belief, including religious ceremonies and the construction of places of worship and schools.

92. No statistics were available on the size of the Muslim community. Originally, and particularly since the mid-nineteenth century, it comprised Syrians and Lebanese from different branches of Islam, a situation that continues to this day. Thirty years ago, the Muslim community numbered some 800,000; today there were fewer than 400,000, a trend explained as follows:

(a) Assimilation of many Muslims into Argentine society owing to the previous lack of religious education in the country of origin and the host country, with many mixed marriages over the years in the context of a fully open Argentine society;

(b) A significant fall-off in Muslim migration to Argentina as a result of better economic opportunities in other countries.

93. In recent years, there had been an attempt to rediscover Islamic tradition. Conversions of non-Muslims to Islam had been apparent over the past 10 years; for example, some 300 conversions had been registered at the Buenos Aires Islamic Centre. The Muslim representatives estimated that Islam was the third largest religious community in Argentina.

94. The Muslim community had 17 mosques, including two in Buenos Aires (the newer, larger mosque having been funded by Saudi Arabia), schools and a hospital open to all. They had not encountered any difficulties with the government authorities and there were no problems of integration into Argentine society.

95. Nevertheless, the representatives pointed out the following problems affecting their community:

(a) They noted the inadequacy of public subsidies for Muslim schools;

(b) They drew particular attention to prejudice against their community and suspicion of Islam conveyed by the media, which sent a message to the Argentine people that Islam and Muslims are linked with fanaticism, terrorism and violence. An example was given of a very popular Argentine journalist, Bernardo Newtadh, who went on television saying that a Muslim was a person holding the Koran in one hand and a gun in the other. The representatives stated that this was linked to specific situations such as the Middle East conflict, and events such as the destruction of the Bamyan Buddhas by the Taliban in Afghanistan. The suspicion of Islam was, moreover, overlaid by suspicion of Arabs, so that all Arabs, whether Muslim or Christian, were associated in the media with terrorism. Press organs even publicized interviews on the Middle East containing calls for murder, such as a statement by a rabbi in Israel calling on people to set bombs and kill all Arabs.

96. Such actions inevitably had an impact on the Argentine Muslim Arab community, which was deeply troubled by the generalizations, stereotyping and insults regarding Islam and Arabs in some of the media. The Muslim Arab representatives noted that this was not a phenomenon peculiar to Argentina, but one that existed virtually worldwide. This anti-Islam and anti-Arab sentiment had a number of consequences, such as the serious difficulty in obtaining visas encountered by Middle East nationals wishing to visit relatives in Argentina, an atmosphere of suspicion, even interrogations of fully integrated Argentine Muslim Arabs, especially since the bomb attacks on the Israeli Embassy and AMIA. Lastly, although it is not possible to establish any formal link with media intolerance, and pending an investigation, there was a bomb attack against the Ad' Tahid mosque on 20 January 2001. There were similar attacks on the Buenos Aires mosque in 1983 and the Flores mosque in 2000.

97. The Muslim Arab representatives indicated that efforts by their community to lay these problems to rest had been fruitless. Firstly, protests sent to the media were ignored. For example, despite the sending of 70 protests against the statements by the rabbi cited above, none has appeared in the press. There is also a selective and ambiguous attitude in most of the media. On the one hand, in passive terms, the media serve as a channel for negative messages about Muslims and Arabs, overlooking the great wealth of Islam and any positive initiatives by Argentine Muslim Arabs (for example, there was no report in the press on the non-aggression protocol signed by the Jewish and Muslim and Christian Arab communities under the auspices of INADI in 1998); on the other hand, the media are on the lookout for any action affecting the Jewish community, in particular any displays of anti-Semitism. This approach vis-à-vis the Jewish community has been welcomed by the Muslim Arab community, which, however, would like to be similarly treated. In addition, the Muslim Arab representatives, while welcoming the contacts established with government authorities and their prompt reaction to the January 2001 attack, note that problems remain.

98. Lastly, while recalling their full integration in Argentine society and their contribution to the development of the country and while welcoming their satisfactory situation in terms of freedom of belief and freedom to manifest their religion or belief, the Muslim Arab

representatives are concerned for solutions to be found and implemented to put an end to negative sentiment against Islamophobia and Arabophobia and the problems to which they give rise.

4. Other minorities of religion and belief

99. Baha'i representatives stated that their situation in terms of freedom of religion and freedom to manifest their religion or belief was fully satisfactory.

100. A representative of the Tibetan Buddhist Association said that the Buddhist community had not encountered any problems relating to freedom of religion and freedom to manifest its religion or belief, including change of religion. Buddhism was perceived as a real religion in Argentina and no difficulties within society were encountered. The Catholic Church, which, in his view, was more concerned with politics and the maintenance of power than religion, was somewhat closed with regard to Buddhism. There had, however, been some change in attitude since the awarding of the Nobel Prize to the Dalai Lama. Argentina should seek to progress towards a better understanding of other religions and genuine separation of Church and State.

101. With regard to so-called sects, several non-governmental interlocutors expressed the view that, with the exception of a few isolated, if high profile, cases focused on by the media, the question of sects was not a subject of controversy in Argentina and they were not a concern. So-called sects were socially accepted; while some of their unlawful practices (for example, an earlier case of a family whose members were accused in the context of legal proceedings of indecent assault on minors) were questioned, their existence was not. Non-governmental representatives found State policy towards sects to be in accordance with international law, namely, offering absolute respect for belief and conviction and complying with limitations established in the case law of the Human Rights Committee regarding manifestations of belief or conviction. By way of example, reference was made to the adoption of legislation recognizing conscientious objection to military service (Act No. 24 429, part I) and in education (Act No. 1818/1984, ibid.), of particular benefit to Jehovah's Witnesses, and to the absence of any State impediment to Mennonite community life, in particular education of children at home (agreement concluded in October 1998 between the Ministry of Education of Pampa province and a Mennonite colony on the teaching of Spanish to children from the age of 6 and the joint selection of teaching materials).

102. Humanist representatives stated that there were cases of discrimination and intolerance in Argentina, arising principally from the privileged relationship between the Catholic Church and the authorities.

103. A number of areas, indicated below, were identified as giving rise to difficulties.

Legal

104. As stated by the humanists, pursuant to article 2 of the Federal Constitution providing for State support for the Catholic Church, the latter receives government financial assistance. The constitutional principle of non-discrimination is violated by the fact that most of the budget for religion goes to Catholic institutions and by the fact that the appropriation for religion is financed

in particular by non-believers. Moreover, the humanists are not legally recognized, and this constitutes an infringement of freedom of belief. Furthermore, INADI, established pursuant to Act No. 24515 of 1995, comprises both representatives of Government and of non-governmental organizations working to prevent discrimination. According to the humanists, the only non-governmental representatives on the INADI Governing Council are from the Jewish and Arab communities, reflecting the concern with Middle East developments, i.e. non-national issues. Representation should be afforded groups experiencing discrimination day by day, namely, immigrants from Latin America, disabled persons and humanists. The humanists indicated that they have not requested inclusion in the register of religions, but have asked not to be excluded from the privileges accorded to religions.

105. With regard to federal and provincial courts, most display a cross and each legal document ends with the words: "May God protect you". The judiciary has been very conservative in cases involving the rights of minorities, such as non-believers and women. The humanists cite as an example a 1996 case in the province of Córdoba involving a child, Alexis Leandro Estrella Sejanovich, who was compelled to participate in prayers in a public crèche. The judge stated that the prayers were not to one god in particular and that "every single reason and justice is derived from God". The judge thus refused to take account of the wish of the parents for their child not to participate in prayers. Following an investigation by the provincial Senate, a decision was taken to end a semi-official programme of promoting religion in schools. With regard to women, requests for termination of pregnancy on the ground that the foetus was malformed have not been given positive answers until the day of birth.

Education

106. The humanists state that most public schools display crosses and images of the Virgin Mary and saints. Moreover, in the provinces of Catamarca, Córdoba, Tucumán, Salta, Jujuy, Santiago del Estero, La Rioja, Formosa and San Luis, prayer in public schools is either tolerated or officially encouraged. Although there have been several such cases, INADI has reportedly not issued any statements condemning such practices in the province of Catamarca. The humanists also state that religious ceremonies are held in public schools, to which teachers, pupils and parents who are not in sympathy with them have difficulty objecting owing to psychological pressure. For example, a teacher in a Luyuba, Córdoba, public school, Lidia López, was allegedly threatened with dismissal for having questioned religious activities in her school, in particular the obligation to participate in prayers imposed on her own daughter. The humanist representatives also reported instances of dismissal of unmarried teachers and students who were pregnant. Lastly, the post of Ministry of Education is seen as the "preserve" of the Catholic Church, without whose approval no appointment can be made.

Other areas of public life

107. The humanists maintain that Catholicism is virtually ubiquitous in public institutions. Thus and, in particular, the armed forces and the security forces include Catholic chaplains, paid by the State, working within these institutions to disseminate the Catholic religion through portrayals of Christ and the Virgin and through masses. Such an environment makes it difficult for non-Catholics - seen as not fully Argentine - to be promoted to senior positions within the forces. Similarly, with regard to charitable works, a number of private organizations, largely

Catholic (in particular Caritas Arquidiocesana), have replaced the State in providing aid to the needy, although using public funds. In the view of the humanists, this situation raises disquieting issues since it means that the needy and vulnerable must deal with institutions that, although discharging a social function, have a manifestly religious agenda. In public health, the Catholic Church, in agreement with several governments, has opposed AIDS campaigns. An example is offered by the case, in Córdoba, of Enrique Borrini, a minister, who, following a complaint to the Governor by the archbishop, was compelled to resign for having authorized the distribution of condoms in the streets. Owing to pressure by the Catholic Church, the provinces cited above have also opposed any legislation on sex education, including contraception, in schools. In many provinces, any legislation to promote equality of women with regard to sexual issues (contraception, abortion, etc.) is systematically set aside.

108. Lastly, the humanist representatives expressed the view that the principles of freedom of religion and belief and of tolerance and non-discrimination are undermined, owing essentially to the quasi-monopoly of the Catholic Church in the public domain and its privileged relationship with the public authorities. They call for the pluralistic nature of Argentine society to be duly reflected in public policy and State institutions and for equal treatment by the State of minorities of religion and belief, which implies, in particular, full recognition of non-believers and their needs.

C. Situation of indigenous peoples

109. Non-governmental representatives explained that there were no official statistics on the size of the indigenous population. A census was conducted in 1965, but the data collected were not used. Estimates by indigenous non-governmental organizations suggest a figure of around 900,000, which is close to the estimate of 850,000 provided by the Chairman of INAI. Our interlocutors report some 450,000 members of indigenous communities, with others in urban and suburban areas. They comprise 18 ethnic groups. However, some indigenous organizations estimate an indigenous population of 2 million, although it is hard to identify the majority owing to their immersion in an urban environment and the very numerous mixed marriages and resultant ethnic, and religious, interbreeding. This leads to the coexistence of religious beliefs stemming from traditional religions and indigenous traditions.

110. Regarding freedom of religion, reference was made to legal developments since the 1994 constitutional reform, namely, the repeal of the earlier constitutional provision on the conversion of indigenous peoples to Catholicism and recognition of the identity of indigenous peoples and their rights in terms of education, legal personality of communities and communal ownership of land. Act No. 23302 led to the establishment of INAI, for the promotion of policy on behalf of indigenous groups.

111. However, non-governmental sources indicate that the very limited advances in this area merely serve to emphasize the gulf between legislation and practice.

112. The principal problem regarding freedom of religion and freedom to manifest one's religion or belief relates to the question of land. Land is the sine qua non for the maintenance and development of an indigenous identity. A Mapuche tenet holds that "the land does not

belong to the Mapuche, the Mapuche belongs to the land". The land, the source of identity, thus has a religious dimension and meaning for indigenous peoples. It constitutes the matrix for their beliefs and a support for the manifestation of those beliefs.

113. The claims of the indigenous communities regarding the restitution of property thus implicitly embody a religious dimension, namely, access to sacred sites and to graves. The situation varies widely in practice: some provinces have granted definitive community property title to land, others have recognized indigenous lands without granting property title; disputes involving private property have led to instances of expropriation or have yet to be resolved. Serious disputes remain, particularly involving companies (for example, in Patagonia, the expropriation by multinational companies, including Benetton, of land belonging to the Mapuche community), as well as State institutions (for example, the army). In this connection INAI has been criticized for a lack of consultation with indigenous groups, the meagre results obtained and, above all, in the view of some, a paternalistic approach to indigenous issues.

114. With regard to the restitution of human remains having religious significance for indigenous peoples, there are difficulties with museums that cite archaeological imperatives, yet there are also instances of the transfer of remains from national museums to indigenous groups.

115. Further, despite a strategic alliance in recent years between indigenous groups and certain religious organizations (for example, Protestants) supporting indigenous demands, there are difficulties in the religious or spiritual domain. Non-governmental sources suggest that religious organizations, while sincere in their provision of assistance to indigenous groups, remain attached to their roots and beliefs, and this results in their sharing the truth as they see it and effectively resorting to proselytism. Similarly, some Christian congregations do not accept indigenous practices that contravene their principles. As an example, non-governmental organizations cite the censuring by the Anglican Church of shamanism in the Witchi community. However, most indigenous communities do not question the situation owing to the commitments made with their religious partners.

116. The view was expressed that, although attention should be paid to respect for indigenous religious traditions the main problem facing indigenous communities was their social, political, cultural and especially economic marginalization in Argentine society.

IV. CONCLUSIONS AND RECOMMENDATIONS

117. The Special Rapporteur sets out below his conclusions and recommendations on legislation, policy and the situation in the field of religion and belief.

Legislation

118. The Special Rapporteur considers that federal and provincial constitutional provisions guarantee freedom of religion and belief and freedom to manifest religion or belief in accordance with relevant international law.

119. Concerning the constitutional provisions on State support for the Catholic Church, namely, article 2 of the Federal Constitution and the corresponding provisions of a number of provincial constitutions, the Special Rapporteur wishes to point out that this special link between the State and a specific religion is not intrinsically at variance with human rights. While noting that this special recognition does not confer on Catholicism the status of official religion under the Federal Constitution, although several provincial constitutions do in fact confer this status, it is important to emphasize that international law and, in particular, the case law of the Human Rights Committee do not call the State or official religion into question (Comment No. 22 of 20 July 1993). However, the Committee did point out that such status should not be exploited at the expense of human rights and minority rights. The issue of the treatment of minorities will be examined below.

120. The constitutional provisions concerning recognition of the identity of indigenous peoples and certain rights in respect of such peoples constitute a belated but noteworthy step forward.

121. The Special Rapporteur welcomes Argentina's accession to most of the international human rights instruments - in fact all the instruments relating to freedom of religion and belief - and the fact that it has incorporated them into the Constitution, with the status that entails.

122. As to the Constitution of Buenos Aires and article 199, which states that education should be provided in State schools in accordance with Christian moral principles, the Special Rapporteur considers that referring exclusively to the values of one religion may, in certain circumstances, constitute discrimination against minorities. However, this provision with constitutional status should in any event be interpreted in the light of the international human rights instruments which Argentina has ratified and which guarantee, in particular, the principle of non-discrimination. The Special Rapporteur also wishes to point out that, in the above-mentioned Comment No. 22, the Human Rights Committee emphasized that limitations on freedom to manifest a religion or belief for the purpose of protecting morals should not be based on principles deriving exclusively from a single tradition.

123. As for other legal provisions, the Penal Code imposes penalties for any attacks on the lives of individuals or individual freedom for religious reasons.

124. The legislation which directly or indirectly governs freedom of religion or belief explicitly or implicitly enshrines the principles of tolerance and non-discrimination, which are the foundations of the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

125. The Special Rapporteur notes with satisfaction the legislation adopted to grant recognition to the religious holidays of the Christian, Jewish and Muslim communities, allow exemptions on religious grounds in schools and guarantee the right to conscientious objection for reasons of belief.

126. He also notes the substantial legislative arsenal designed to prevent and punish any discrimination based on religion or belief, in the context of framework legislation of general scope which provides for criminal penalties (the 1998 Anti-Discrimination Act), as well as laws

covering specific areas such as citizenship, the sphere of work, political parties, trade union associations and education. The creation of INRA by Parliament as a body composed of experts serving in a personal capacity is also a highly positive initiative.

127. Lastly, the Special Rapporteur congratulates Argentina on the importance attached to prevention, especially in education, in the form of the Government's decisions encouraging activities to commemorate the Holocaust and the "Day of Coexistence in Cultural Diversity".

128. Overall, the Special Rapporteur considers that Argentine legislation furnishes solid constitutional foundations and important legal guidelines to guarantee freedom of religion and belief.

Policy and situation in the field of religion and belief

129. Concerning the policy and situation in the field of religion and belief, the Special Rapporteur wishes first and foremost to point out Argentina's especially encouraging record in the transition from a period of dictatorships to the introduction of democracy, despite the difficulties inherent in any such change. The State's policy of making Argentina a model at the international level, particularly in the field of human rights, represents a remarkable challenge. In that regard, one can only welcome the active and conspicuous presence of many Argentine experts in United Nations human rights machinery and the fact that Argentina chaired the Commission on Human Rights at its fifty-seventh session in March-April 2001. In that regard, Argentina is a pacemaker in human rights.

130. The Special Rapporteur considers that the State's policy generally embodies respect for freedom of religion or belief and freedom to manifest religion or belief, in keeping with international human rights standards in this field. The authorities permit the practice of religion, the construction of places of worship, religious education and, in fact, apart from special situations and cases, the expression of all manifestations of freedom of religion. Similarly, the State grants public funds to a variety of religious communities, both the predominant Catholic Church and religious minorities. In general, the State does not interfere in the internal affairs of communities of religion and belief. It is very active in dialogue and cooperation with religious communities, inter alia, through the proclamation of days commemorating the Holocaust, for example, or the "Day of Coexistence in Cultural Diversity", the establishment of an advisory council of clergy and laymen to address freedom of religion and the drafting of a bill on freedom of religion.

131. The Special Rapporteur considers that the situation in Argentina in respect of freedom of religion or belief, which is also a reflection of State policy, is generally satisfactory. It is true that exceptions to generally positive overall conditions, which, strictly speaking, relate to freedom of religion or belief, need to be underlined and should be prevented and remedied. There is also the matter of the effectiveness of the principle of non-discrimination laid down in legislation.

132. The complexity of specific cases and situations must also be emphasized. Incidents of intolerance and discrimination which may affect religious and ethnic communities stem from a combination of various factors - political (at the national and international level), religious,

economic and social, although it is hard to identify the main component. Taken together, the consultations held with non-governmental sources and some officials indicate that religion and belief are not a prominent or essential element in Argentina's misfortunes. Concerns relate above all to the country's economic difficulties and their consequences in terms of employment, social cohesion and, in particular, the integration of vulnerable groups, including immigrants and indigenous people. There is also a need to address the past dictatorship, which has left its mark on society and State institutions, and hence to remain constantly vigilant in strengthening the democratic process within institutions, but also taking into account the behaviour and mentalities of each individual. Yet, while Argentina's economic, social and historical context must be borne in mind, special attention needs to be paid to the situation of communities of religion or belief, which represent a showcase of State policy in the field of human rights in general and freedom of religion or belief in particular.

Religious communities

133. All the religious communities consulted by the Special Rapporteur, whether the predominant Catholic Church or religious minorities, agreed that the situation was satisfactory regarding freedom of religion and freedom to manifest religion, which can be fully exercised in Argentina, free of any State interference.

134. Minorities which are not originally from Argentina (including those belonging to the predominant Catholic religion), but which are totally integrated in the Argentine religious picture, such as the Armenian Apostolic, Maronite, Ukrainian Catholic, Russian Orthodox, Buddhist and Baha'i communities, stated that their identity, their specificities and their religious traditions could not only be preserved, but could flourish in Argentina.

135. Concerning the practice of religion, it was pointed out that changes of religion did not did not give raise to any difficulties, either among the elites (as witness the conversion of former President Menem, a Muslim of Syrian origin, to Catholicism) or in the rest of society (for example, conversions to Islam, Buddhism, etc.).

136. The dialogue between and within religions, while it should be deepened and broadened, especially where the most recent religious communities are concerned, is undeniably an achievement and a factor promoting coexistence among the various religious communities. With regard to relations within religions, the role of the Ecumenical Commission of Churches (grouping together the different Christian denominations within both the predominant Catholic religion and the non-Catholic minorities) can only be welcomed. Concerning relations between religions, the Special Rapporteur welcomes the declaration of non-aggression signed by representatives of the Christian and Muslim Arab community and the Jewish community under the auspices of INADI following the events of the intifada in the Middle East. Such an initiative can undoubtedly serve as an example at the international level in conflict management and prevention.

137. Lastly, the situation in the field of freedom of religion and freedom to manifest religion in the strict sense is generally positive.

138. However, problems are raised by the religious minorities, or at least some of them, relating mainly to the principle of equal treatment and attacks in various forms (physical or symbolic) against certain denominations.

The issue of equal treatment

139. The Protestant and Russian Orthodox communities consider themselves subject to unequal treatment by the State and State institutions, principally as a result of the privileged position of the Catholic Church (by virtue of article 2 of the Federal Constitution and certain provincial constitutions which either replicate this provision or declare Catholicism to be the official religion).

140. While welcoming the State aid granted to all denominations, in particular for primary and secondary schools, for places of worship classified as having historical importance and through tax concessions, they called into question the financial support which, for the most, part benefited the Catholic Church and its religious but also its social institutions. Mention should also be made of the concern expressed by the Muslim community relating to the inadequate level of State subsidies for its schools.

141. The Christian communities mentioned above also demanded to be granted the status of legal persons under public law, which only the Catholic Church enjoys to date.

142. They pointed to, and objected to, various examples of active or passive discrimination resulting from different interpretations of article 2 of the Federal Constitution by officials, as well as from the Catholic Church's influence on the State, such as the dominant presence of Catholic symbols in State institutions and on official documents, the influence of Catholic beliefs in school textbooks and the failure to acknowledge the rights of women in matters of sexuality.

The issue of serious infringements affecting religious communities

143. The Special Rapporteur noted the trauma caused by the attacks against the Embassy of Israel and AMIA, not only in the Jewish community, but also in society as a whole and among State officials. He underlines the need to throw light on these attacks. However, he considers that he is not in a position to make any judgement or take any position on the way in which these two incidents were handled by State institutions. While noting that there were long delays in identifying and trying those responsible, but also that the two attacks were extremely complex in nature (it is for the courts to examine the various theories proposed and reach a conclusion; there is a need in particular to avoid spreading rumours, for example, of governmental or non-governmental involvement on the part of countries known as Muslim countries in the Middle East, or else the theory of "implosion", affecting the members of the Muslim and Jewish communities in Argentina), the Special Rapporteur considers that justice in Argentina must take its course. It should also be noted that certain allegations presented to the Special Rapporteur concerning anti-Semitism on the part of certain judges and members of the police and security forces, even if confirmed on the basis of evidence and court rulings, could in no case incriminate the institutions in question.

144. The Special Rapporteur's approach and his modus operandi naturally remain the same regarding the affair of the skinheads, the affair of the conductor Merenson and the case of the desecration of Jewish graves, on the one hand, and, on the other, the attacks against the Muslim community (against the mosque of Ad'Tahid on 20 January 2001, the Buenos Aires mosque in 1983 and the Flores mosque in 2000), the Protestant communities (evangelical churches set on fire in 1999 and 2000, and a Methodist church in 2000) and the Armenian Apostolic community (attack on the San Gregorio El Iluminado school on 18 March 2000), which, most fortunately, did not result in the losses of lives and property caused by the attacks on AMIA and the Embassy of Israel.

145. This approach is all the more justified as it is absolutely impossible to state categorically the nature of these attacks - religious, political, racist, xenophobic or other. However, it has been established that they had an effect on ethnic and/or religious communities and must be brought to court and prevented in the future.

146. The Special Rapporteur also noted some Islamophobia accompanied by Arabophobia fostered by some parts of the written and audiovisual media, especially those aimed at the mass market, where Arabs in general and Islam in particular are linked with intolerance and discrimination. This phenomenon of defamation consisting of the imputing of isolated cases and situations involving individuals and groups that draw their inspiration from Islam and/or belong to the Arab world, but of course in no way represent the great majority of Islam and Arabs, is not specific to Argentina and is regrettably prevalent all over the world (see, in particular, the reports on the Special Rapporteur's visits to the United States (E/CN.4/1999/58/Add.1) and Australia (E/CN.4/1998/6/Add.1). Such media campaigns of denigration naturally affect the Arab and Muslim communities in Argentina and must be firmly denounced and combated.

Other communities of religion or belief

147. Concerning the question of sects, in the light of the consultations held with non-governmental and official sources, it is clear that, aside from cases which were undoubtedly serious, but few in number, such as the cases of the Alchemy Center for Transmutation and those reported by the SPES Foundation, these communities are not the focus of a real debate in society and State institutions, not even controversies, and still less "witch-hunts". Their place among religions or beliefs in Argentina has not been challenged. Moreover, under relevant international law, which is applicable to all groups and individuals, whatever their religion or belief, the State intervenes only within the context of the restrictions stipulated, inter alia, by the case law of the Human Rights Committee (Comment No. 22 of 20 July 1993) to the effect that restrictions imposed on freedom to manifest religion or belief are permitted only if they are prescribed by law, are necessary to ensure public safety, order and health and to protect morals or the fundamental freedoms and rights of others and are applied in a manner that will not vitiate the right to freedom of thought, conscience and religion. The State also applies these principles of cooperation and respect for autonomy in the case of certain communities, such as the Jehovah's Witnesses, by means of laws recognizing conscientious objection in the context of military service and education and, in the case of the Mennonites, through agreements relating to the education of children at home.

148. Humanists consider that the non-Catholic minorities, and particularly minorities sharing a belief, are affected above all by discrimination arising principally from the special relationship between the Catholic Church and State institutions. The unequal treatment alleged by the Protestant and Russian Orthodox Churches is confirmed by the humanists. Freedom of belief itself, a deeply personal matter, is not acknowledged and, in violation of international law in this area, is flouted in a number of cases and situations in the legal field, in education and in institutions, for example, in connection with obligatory religious ceremonies and prayers in State schools.

The majority position of the Catholic Church

149. As with the other religious communities, the situation of the Catholic Church as regards respect for freedom of religion and freedom to manifest religion is satisfactory. The Catholic Church regards its special relationship with the State, for example in the shape of State financial aid and the presence of religious symbols in State institutions, as perfectly normal for historical and sociological reasons. It is not viewed as discriminatory or as a privilege vis-à-vis the other communities of religion or belief. On the contrary, the Catholic Church is considered to have insufficient influence in State institutions, especially given the growth in numbers of non-believers. The Catholic Church also voices concern at the inadequate numbers of clergy and the need for greater funds to serve the Catholic community.

Indigenous peoples

150. The major problem facing the indigenous peoples is their marginalization from Argentine society, to such an extent that their numbers remain an enigma. The legislative and institutional progress achieved in recent years to the benefit of the indigenous population is to be welcomed, in particular the elimination of the constitutional provisions relating to their conversion to Catholicism, recognition of their identity and certain rights, and the establishment of INADI. However, it is proving difficult to give this progress practical shape and produce the hoped-for impacts. Such results are urgently needed in order to maintain the indigenous identity, including, of course, a religious dimension. The process of returning land to indigenous people, as the touchstone of their identity, is thus a precondition for providing access to holy sites and burial grounds and hence for legitimate religious or spiritual activities.

Recommendations

151. The Special Rapporteur recommends to the Argentine authorities that, in the legal field, they should pursue their efforts firmly to establish the principles of tolerance and non-discrimination. Similarly, the State's declared policy of giving Argentina a leading role at the international level and in the field of human rights should be maintained and supported. The policy of ensuring respect for freedom of religion or belief and freedom to manifest religion or belief which has been followed to date in accordance with international human rights standards and jurisprudence should be continued. The same applies to relations between the State and religious communities as regards the application of the principles of cooperation and respect for autonomy.

152. The Special Rapporteur puts forward the following specific recommendations.

Equal treatment

153. From the viewpoint of international law and jurisprudence in this field, the status of the Catholic Church as enshrined in the Constitution is not called into question. Concerning the manifestations of this status and their impact on the other communities of religion or belief, the Special Rapporteur, while understanding the special position occupied by the predominant Catholic Church for historical and sociological reasons, considers that a number of steps should be taken to ensure wholly equal treatment of all communities of religion or belief.

154. Concerning financial aid from the State, the Special Rapporteur has noted the statement made by the Secretary of Worship relating to possible future changes in the shape of the revision of the system of financial support for religions. In this regard, the Special Rapporteur recommends extensive consultations with communities of religion or belief, however large or small they may be, in order to draw up a detailed list of needs in terms of financial assistance from the State. In the light of these results, the Special Rapporteur recommends that the State should decide on financial grants to communities of religion or belief, on the basis of the principle of equality through equivalence.

155. Concerning the status of legal person under public law, which is at present granted exclusively to the Catholic Church, and assuming the eventual adoption of the bill prepared by the Secretary of Worship (granting such status to religions once their registration has been approved), the Special Rapporteur considers it necessary to ensure, in the light of the principle of equality, the absence of discriminatory consequences arising from the granting or non-granting of the status of legal persons under public law (a study which is needed in the light of the present situation, but will also be needed if the bill is adopted because certain denominations that wish to register, but do not comply with the established criteria, will be unable to benefit from the status of legal person under public law).

156. Concerning humanists, the Special Rapporteur recommends that their representatives should be fully recognized by the State and should be consulted within the appropriate State institutions, such as INADI, as well as on the problem raised by the fact that taxes used to fund religions are imposed on non-believers.

157. Concerning manifestations of Catholicism in State institutions (for example, the presence of Catholic symbols), the Special Rapporteur understands the historical and sociological considerations involved, but recommends that the authorities should ensure, by means of a variety of measures (in the field of training and education, for example), that this does not lead to any passive or active discrimination (for example, in relation to genuine access for all citizens, whatever their religious or ethnic affiliation, to senior posts in key State institutions such as the security and police forces) on the part of officials, on the basis of their own interpretations. It is also important that all values, and particularly religious values (Catholic in the present case), which might underlie the policies and legislation of the State should not be in conflict with the international human rights instruments which are binding on Argentina, especially those relating to women's rights, belief and non-discrimination.

158. The Special Rapporteur recommends that, during the discussion and elaboration of the bill on freedom of religion prepared by the Secretary of Worship, due account should be taken of the concerns set out above as regards respect for the principle of non-discrimination in the manner in which the State and State institutions treat the various communities of religion and belief. It is necessary to take time to consult all those involved more thoroughly and to review more comprehensively the provisions which have given rise to misunderstandings (for example, article 7 of the bill contains an over-vague definition of practices which may serve as grounds for not registering a body, such as magic, physical or mental exercises and parapsychological techniques, whereas such activities can constitute traditional practices that have formed part of various manifestations of religion for centuries. This article offers much too much room for judgement and hence a discretionary power which may by used in a discriminatory manner).

Incidents relating to religion or belief

159. Concerning the attacks which affected the Jewish community (against the Embassy of Israel and AMIA, the skinheads affair, the affair of the conductor Merenson, desecration of graves), the Muslim community (attacks on mosques) and the Christian communities (arson in Protestant churches and an attack in an Armenian school), the Special Rapporteur recommends that investigations should continue to identify those responsible and that justice should take its course within a reasonable period. It is also important that the security measures introduced by the authorities to guarantee protection of community premises should be maintained and upgraded, so as to prevent any future attacks as far as possible. The Special Rapporteur considers that it is not possible to demand absolute security and at the same time complain that protection measures single one community out, as some in the Jewish community claim.

160. With regard to Islamophobia and Arabophobia, the Special Rapporteur recommends that the media should be targeted with an educational campaign. Basic freedom of the press should be subject to limits when it generates real intolerance, which is the antithesis of freedom. It is not acceptable for some of the media to take refuge behind the basic principle of freedom in order to pervert it. The Special Rapporteur recommends the application of criminal and financial penalties for all calls to hatred issued through the media. It is also necessary to enable prosecutors to make use of simplified procedures to initiate proceedings against those perpetrating such offences through the press. The Special Rapporteur reiterates his recommendations concerning action to be taken within the context of the technical cooperation programmes of the Office of the United Nations High Commissioner for Human Rights (E/CN.4/1995/91, para. 215) and specifically the organization of workshops for media representatives to acquaint them with the importance of disseminating information in conformity with the principles of tolerance and non-discrimination, in general, and in the field of religion or belief, in particular. Lastly, the Special Rapporteur recommends that prizes should be created for awarding to journalists who have written articles on minorities, religion or belief, in accordance with the principles mentioned above.

161. Concerning cases and situations where freedom of belief is violated, specifically those relating to obligatory prayers and religious ceremonies in State educational establishments, the Special Rapporteur recommends respect for international law in this matter, in other words, the

guaranteeing of freedom of belief as an absolute right. The State is therefore called on to investigate the cases and situations in question and to take all appropriate steps, for example, to ensure that prayers and religious ceremonies are not obligatory and to make arrangements for pupils who are non-believers or do not wish to take part in religious activities at school. Precautions should also be taken to ensure that such arrangements do not constitute a source of marginalization or passive discrimination against non-believers and non-practitioners.

Indigenous peoples

162. The Special Rapporteur recommends that the official policy in favour of indigenous peoples should be continued and, most importantly, strengthened in order to end the marginalization of indigenous people and thus promote their complete development, both as individuals and in a community framework, in the economic, social, cultural and religious fields. At stake is not only the full integration of indigenous people into Argentine society, but also the safeguarding of their identity and their traditions. In that regard, it is vital that the State and agencies such as INAI should fully involve indigenous representatives in drawing up and carrying out policies, legislation and measures relating to them, under a cooperative and not a paternalistic approach. The Special Rapporteur also recommends that the Government, in consultation with indigenous representatives, should carry out and publish a study on the impact of legislation adopted to benefit indigenous people in order to take stock of progress made and difficulties encountered and to make appropriate recommendations.

163. Concerning the religious sphere in the strict sense and the matter of the return of land (of religious significance to indigenous people), as well as certain economic and religious conflicts in this area, the Special Rapporteur wishes to point out that freedom of belief, and that of indigenous people in particular, constitutes a fundamental issue and requires protection to be strengthened further. The freedom to profess one's belief is recognized, but can be subject to restrictions insofar as they are strictly necessary and provided for in article 1, paragraph 3, of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, as well as article 18 of the International Covenant on Civil and Political Rights. The expression of such belief may be reconciled with other rights and legitimate concerns, including those of an economic nature, but after taking due account, on a footing of equality (in accordance with each person's system of values), of the rights and demands of those involved. Access for indigenous people to their holy sites and burial grounds of religious significance is a fundamental right in the sphere of religion and one whose exercise must be guaranteed in accordance with the provisions of international law on the matter, as mentioned above. On the specific issue of the return of human remains of religious importance for the indigenous people which are located in museums and similar institutions, there is a need for the State to cooperate to ensure that all obstacles are removed and that the remains are returned as soon as possible. The Special Rapporteur also recommends that, following consultations and agreement with indigenous representatives, the bill on freedom of religion prepared by the Secretary of Worship should take into consideration the special position of indigenous people in respect of religion and its manifestations.

Education

164. The Special Rapporteur recommends to the authorities that they should continue their efforts relating to prevention in the field of education. Aside from the days to commemorate the Holocaust and the "Day of Coexistence in Cultural Diversity", as well as the Ministry of Education's programme to train trainers in ethics and good citizenship, the Special Rapporteur recommends that the authorities should draw up and adopt a prevention strategy intended to promote and develop a human rights culture founded in particular on the creation of awareness of the values of tolerance and non-discrimination in the field of religion and belief. In this context, there is a need for the State to review school textbooks and curricula and the training of trainers and teachers in primary and secondary schools. Particularly recommended is action to ensure the dissemination through education of a balanced representation of the self and other people. In that regard, special attention should be paid to minorities in the area of religion or belief, women, indigenous peoples and immigrants.

Other issues

165. Lastly, the Special Rapporteur recommends the continuation of the technical cooperation programme of the Office of the United Nations High Commissioner for Human Rights entitled "Strengthening of human rights" in Argentina (under which activities have covered human rights training for the police, the publication of a magazine on human rights, the organization of a workshop on human rights and handicapped people and a meeting of the Federal Council on Human Rights). The Special Rapporteur recommends in particular that this assistance in strengthening Argentine national capabilities in the human rights field should take account of the recommendations set out above, after the Argentine authorities have been consulted and have given their consent.

166. Lastly, the Special Rapporteur wishes to reiterate his thanks to the Argentine authorities, including the Minister for Foreign Affairs. He notes in particular with interest that the Minister for Foreign Affairs has underlined the need felt in Argentina for visits such as the one which gave rise to the present report and also a readiness to welcome any suggestions arising from it.